114.3 CMR: DIVISION OF HEALTH CARE FINANCE AND POLICY

114.3 CMR 48.00: DAY HABILITATION PROGRAM SERVICES

Section

48.01: General Provisions

(1) Scope and Purpose. 114.3 CMR 48.00 governs rates of payment to be used by all purchasing governmental units making payment to eligible providers for day habilitation services governed by 106 CMR 419.000 and other comparable programs.

(2) Disclaimer of Authorization of Services. 114.3 CMR 48.00 is not authorization for or approval of the substantive programs for which rates are determined pursuant to 114.3 CMR 48.00. Governmental units that purchase care are responsible for the definition, authorization, and approval of care and services extended to publicly-aided individuals. Information about substantive program requirements must be obtained from purchasing governmental units.

(3) Effective Date. 114.3 CMR 48.00 is effective December 3, 2005.

(4) Administrative Information Bulletins. The Division may issue administrative information bulletins to clarify its policy on and understanding of substantive provisions of 114.3 CMR 48.00, as well as to publish procedure code updates and corrections. The publication of such updates and corrections will list:

(a) codes for which only the code numbers change, with the corresponding cross references between existing and new codes;
(b) deleted codes for which there are no corresponding new codes; and
(c) codes for entirely new services that require pricing. The Division will list these codes and apply individual consideration (I.C.) reimbursement for these codes until appropriate rates can be developed.

(5) Authority. 114.3 CMR 48.00 is adopted pursuant to M.G.L. 118G.

48.02: Definitions

Meaning of Terms. As used in 114.3 CMR 48.00, unless the context requires otherwise, terms have the following meanings.

Approved Rates. The rates of payment that have been certified by the Division and filed with the Secretary of the Commonwealth. These rates govern payment for services under 114.3 CMR 48.00.

Client Severity Profile. Client need as determined by the MassHealth Agency. A client with a score at or below the 25th percentile is classified as a Low Need Client. A client with a score between the 25th and 75th percentiles is a Moderate Need Client, and a client with a score above the 75th percentile is a High Need Client. The score at the 25th percentile is 41, and the score at the 75th percentile is 71.

Cost Report. The document used to report costs and other financial and statistical data. The Uniform Financial Statement and Independent Auditor's Report, when required.

Day Habilitation Program. A structured, goal-oriented active treatment program of medically oriented, therapeutic, and habilitation services to raise recipients' levels of functioning and facilitate independent living and self-management in their communities.

Eligible Provider. Any individual, group, partnership trust, corporation or other legal entity that offers services for purchase by a governmental unit and that meets the conditions of purchase or licensure established under 106 CMR 419.000.

Governmental Unit. The Commonwealth, any department, agency, board or commission of the Commonwealth and any political subdivision of the Commonwealth.

Publicly Aided Individual. A person for whose medical and other services a governmental unit is in whole or part liable under a statutory program.

Operating Agency. An individual, group partnership, corporation, trust or other legal entity that operates a day habilitation program.

Operational Capacity. A program's maximum number of service units for which there is adequate planned and budgeted space, equipment, and staff.

Related Party. A person or organization that is associated or affiliated with, has control of, or is controlled by the operating agency or any director, stockholder, partner, or administrator of the operating agency by common ownership or control or in a manner specified in sections 267(b) and (c) of the Internal Revenue Code of 1954 as amended, provided, however, that 10% shall be the operative factor as set out in sections 267(b)(2) and (3) and provided further that the definition of "family members" found in section 267(c)(4) of said code shall include for the purpose of 114.3 CMR 48.00:

(a) husband and wife,
(b) natural parent, child and sibling,
(c) adopted child and adoptive parent,
(d) stepparent and stepchild,
(e) father-in-law, mother-in-law, sister-in-law, brother-in-law, son-in- law, and daughter-in-law, and

(f) grandparent and grandchild.

Reporting Year. The operating agency's fiscal year for which costs incurred are reported to the Division of Purchased Services on the Uniform Financial Statements and Independent Auditor's Report, normally July 1st to June 30th.

Service Unit. The measurable unit of program care and treatment determined by the purchasing governmental unit. The service unit for a day habilitation program is a minimum of a six hour day.

Utilization. The total number of service units actually delivered, regardless of payment received.

48.03: Filing and Reporting Requirements

(1) Reporting for Annual Review. Unless exempted herein, each Operating Agency shall on or before the 15th day of the fifth month after the end of its fiscal year, submit to the Division:

(a) a copy of its Uniform Financial Statement and Independent Auditor's Report, completed in accordance with the filing requirements and instructions of the Division of Purchased Services, Office of Administration and Finance.

(b) supplemental program questionnaire as requested by the Division of Health Care Finance and Policy.

(c) a list of all the Individual Aide supplemental services purchased by DMR according to 48.04. Such a list shall contain at least the following; job title or discipline of the individual hired, hourly rate paid, number of hours paid, the total payment and schedule and line number where the cost is reported on the Cost Report.

(2) Client Severity Profile. On or before March 1, of each year, each Operating Agency shall submit a complete Client Severity Profile to the MassHealth Agency.

(3) Non-Compliance.

(a) Failure by an Operating Agency to submit accurate and timely information as requested in 114.3 CMR 48.03(1) may result in a penalty. The rates will be reduced for an amount of time equal to the period of non-compliance. The penalty shall accrue at a rate of 5% per month of non-compliance. The penalty shall not exceed a cumulative total of more than 50%. If a provider is not in full compliance upon completion of the filing of new rates, at no time can the new rates exceed the penalty adjusted current rate. If the new rate were to exceed the penalty adjusted current rate, the filing of the new rate will be delayed until the Operating Agency fully complies with the filing requirements. If , on the other hand, the new rate is less than the rate currently in effect, then the new rate will become effective immediately and potentially subject to further penalty.

(b) Additional Information Requested by the Division. Each Operating Agency shall file such additional information as the Division may from time to time require no later than 21 days after the date of mailing of that written request. If the Division's request for the missing information or documentation is not fully satisfied through the submission of written explanation(s) or documentation within 21 days of the mailing of that request, all costs relative to that request shall be excluded from rate development.

(c) If an Operating Agency fails to submit a complete Client Severity Profile within the time prescribed in 114.3 CMR 48.03(2), all of that Operating Agency's Day Habilitation Program Rates shall be reduced to the Low Need Rate listed in 114.3 CMR 48.04(2). Once the Profile is received, the appropriate rates will be reinstated, effective the date of such receipt.

4) General Provisions.

(a) Accurate Data. All reports, schedules, additional information, books, and records that are made available to the Division are certified under pains and penalties of perjury as true, correct and accurate by the Executive Director or Chief Financial Officer of the Operating Agency.

(b) Examination of Records. Each Operating Agency will make available all records relating to its operation and all records relating to a realty service or holding company or related party or any entity in which there may be a common ownership or interrelated directorate upon request of the Division for examination.

(c) Field Audits. The Division may conduct a field audit from time to time. The Division will make reasonable attempts to schedule an audit at the mutual convenience of both parties.

48.04: Rate Provisions

(1) Reimbursement as Full Payment. Each eligible provider shall, as a condition of receipt of payment from one or more purchasing governmental units for services rendered, accept the approved rates as full payment and discharge of all obligations for the services rendered, subject only to appellate rights as set forth in M.G.L. 118G. There will be no duplication or supplementation of payment from sources other than those expressly recognized or anticipated in the computation of the rate. Any client resources or third party payments received on behalf of a publicly assisted client shall reduce, by that amount, the amount of the purchasing governmental unit's obligation for services rendered to the publicly assisted client.

(2) Day Habilitation Program Rates. For services provided in day habilitation programs in the community, the approved rates include payment for all care and services that are customarily part of the program of services of an eligible provider, subject only to the terms of the purchase agreement between the eligible provider and the purchasing governmental unit(s). The rates of payment for authorized services shall be the lower of the established charge or the rate listed in 114.3 CMR 48.04(6).

(3) Supplemental Service Included in Individual Aide Rates. Certain clients may need supplemental services in the form of additional staff assistance to enable their participation in the day habilitation program. For these qualifying clients, the approved individual aide rates include salary, payroll taxes and fringe benefits for an individual aide for a specific client. The supplemental rate applies only when one of the following conditions exists:

(a) The purchasing agency determines that the specific client could not participate in a day habilitation program without supplemental one-to-one care.

(b) The need for supplemental services must be documented in the client's individual service plan or similar plan of care.

Approved supplemental services rates are as follows:

(a) Program Aide. Direct Care services provided by the equivalent of a Direct Care/ Program Staff I as defined in the Uniform Financial Statement and Independent Auditor's Report Preparation Manual:

Minimum	Maximum
$ 8.65 per hour	$ 11.50 per hour

The amount of the individual aide rate will be determined by the Purchasing Agency.

(b) Paraprofessional and Other Credentialed Aides or Those Requiring Experience Beyond that of a Direct Care/Program Staff I. This includes but is not limited to Physical Therapy Aides, Certified Occupational Therapy Aides, or behavioral specialists.

The amount of the individual aide rate will be determined by the Purchasing Agency and will be based on wages for comparably qualified individuals.

(c) Other Supplemental Services. Reimbursement of eligible providers for other supplemental services governed by any other chapter of 114 CMR is in accordance with the rates contained in the relevant regulation for that service.

(4) Day Habilitation Services in Nursing Facilities. Certain residents of nursing facilities who qualify for day habilitation services may be unable to participate in these services in community settings. These individuals may qualify for day habilitation services to be provided at the nursing facility in which they reside. In order to be eligible for these nursing facility services, the individual must meet criteria established by theMassHealth Agency. The approved rates cover all care and services associated with the provision of day habilitation services in a nursing facility.

(a) Serving One, Two, or Three Individuals in a Nursing Facility. In situations where no more than three residents receive day habilitation services in the nursing facility, the rates do not vary by client need. The rates of payment for authorized services, including transportation, shall be the lower of the established charge or the rate listed in 114.3 CMR 48.04(6).

(b) Serving Four or More Individuals in a Nursing Facility. For a staffing level of one to four or more, refer to approved community day habilitation program rates, along with the transportation rate listed in 114.3 CMR 48.04(6). A maximum of two transportation units can be billed for at most one person for any given nursing facility visit, in accordance with purchasers' specifications.

(5) Supplemental Staffing for Nursing Facility Residents in Community Day Habilitation Programs. Certain qualifying individuals in nursing facilities may need supplemental services in the form of additional staff assistance to enable them to leave their nursing facility to participate in day habilitation services in the community. These services do not apply to nursing facilities residents who receive day habilitation services at the nursing facility. The MassHealth Agency will pay a supplemental rate to augment staffing ratios when an individual needs assistance for all or part of the time that an individual participates in a community day habilitation program and meets criteria established by the MassHealth Agency. The approved supplemental rate includes salary, payroll taxes, and fringe benefits is listed in 114.3 CMR 48.04(6).

(6) Approved Day Habilitation Program Rates. The rates of payment for authorized day habilitation program services, unless otherwise noted above, shall be the lower of the established charge or the rate listed below. Refer to purchasers' manuals for special coding instructions and limitations on number of units.

Code	Rate	Description
H2014	$2.46	Skills training and development, per 15 minutes (community program, low need)
H2014-TF	$2.78	Skills training and development per 15 minutes, intermediate level of care (community program, moderate need)
H2014-TG	$3.65	Skills training and development, per 15 minutes, complex/high tech level of care (community program, high need)
H2014-U2	$7.43	Skills training and development, per 15 minutes (nursing facility, one to one staffing level)
H2014-U1	$4.12	Skills training and development per 15 minutes (nursing facility, one to two or one to three staffing level)
T2003	$3.65	Non-emergency transportation; encounter/trip (used only when serving four or more individuals in a nursing facility)
H2014-22	$3.41	Skills training and development, per 15 minutes, unusual procedural service, when the service(s) provided is greater than that usually listed for the listed procedure (supplemental staffing for nursing facility residents in community day habilitation)

48.05: Severability of the Provisions of 114.3 CMR 48.00

The provisions of 114.3 CMR 48.00 are severable, and, if any provision of 114.3 CMR 48.00 or application of such provision to any Operating Agency or fiscal intermediary of any circumstances is held invalid or unconstitutional, this determination will not affect

the validity or constitutionality of any remaining provisions of 114.3 CMR 48.00 or application of such provisions to Operating Agencies or fiscal intermediaries or circumstances other than thus held invalid.

REGULATORY AUTHORITY

114.3 CMR 48.00: M.G.L. 118G.